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I AM THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA  
LAW CLERK'S

JOHN RICHARD JADES

PLAINTIFF,

VS.

JUDGE'S COPY

CASE NO. 1-00-cv-

FILED  
HARRISBURG

U.S. DISTRICT JUDGE R.  
MAGISTRATE JUDGE SMY

KENNETH D. HYLER et al.,

Defendants

MARY E. O'ANDREA, CLERK  
POP  
DEPUTY CLERK

JUN 27 2001

PLAINTIFF IS [REDACTED] BRIEF IN REPLY TO DEFENDANT'S  
MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION TO  
CORRESPOND WITH ANOTHER INMATE

COMES now, the Plaintiff & his Se Counsel in the above entitled Case  
John Richard Jade, as a Layman Unlettered in the Arts & Sciences of  
Legal Procedures Within the United States, & who, now pursues  
M.D. LP #77, of this Court, files his Plaintiff's Brief in Re-  
Defendant's memorandum in opposition to Plaintiff's Motion to  
Correspond With Another Inmate herein, & who, avers, deposes & states:

On or About June 1, 2001, Plaintiff filed his Motion in  
Requiring Defendant Degowin and SCI-Greene Superintendent  
Conner Blame to Permit this Plaintiff to Communicate  
And Write To Inmate Norman Johnston at SCI-Camp Hill  
Brief in Support, heretothis above entitled CIVIL RIGHTS ACT

On or About June 18, 2001, Defendants, by Counsel for  
Memorandum in opposition to Plaintiff's Motion to Correspond  
With Another Inmate, heretothis case.

This here is the Plaintiff's Brief in Reply to Defendants  
Memorandum in opposition to Plaintiff's Motion to Correspond  
ARGUMENTS

I. THE PA. DE. POLICY PROHIBITING INMATES FROM  
CORRESPONDING WITH EACH OTHER WHILE  
RECEIVING AND WHILE FURTHERMASSIMILATE  
GENOCIDAL PURPOSES IN GENERAL. I DON'T  
KNOW WHAT THEY MEAN BY THIS ONE

Inmates incarcerated at different institutions except where the Superintendent of the institution has specifically approved the communication DC-ADM-803. This regulation is a reasonable means of preventing inmates from different institutions from carrying out concerted action to disrupt the institutions or to facilitate escapes.

However, by way of reply to such, the Plaintiff avers & submits that while true in general, it is not true herein that instant case is "not" even applicable herein, as the Plaintiff does "not" herein to communicate with Inmate Norman Johnston for the purpose of carrying out any concerted action to disrupt the institutions or to facilitate any escapes at all, but rather this Plaintiff is to correspond with Inmate Norman Johnston only for the purpose of obtaining the affidavit from for use in enabling him to oppose Defendants' Motion for Summary Judgment for use in Civil Rights Action, as is this Plaintiff's right so do under § 14th Amendments of the U.S. Constitution and under Fed.R.Civ.P. which is thus protected activity, notwithstanding the DOC Rule #203-K-A-3-a) prohibiting inmates from communicating with one another unreasonable & unconstitutional that for as such can be to prohibit this Plaintiff from obtaining legal information—the affidavit from inmate Norman Johnston in this case.

In D-2, of the memorandum in oppositions Plaintiff, Mottin to Correspond with Another Inmate, Defendants

A true and correct copy of the relevant provisions of DC-ADM-803 are appended to this memorandum.

However, in reply to such, the Plaintiff avers & submits that DC-ADM-803 which the Defendants have attached memorandum is "not" true & correct copy of the present 803 in effect now & such has been repealed & superseded DC-ADM-#203, effective on February 19, 2001, such is.

Defendants next claim & argue, that

In this case, the Department of Corrections has a legitimate interest in the safety of its employees and inmates. The Department has an interest in protecting inmates from conducting illegal activities, including those that would pose a threat to the Plaintiff and others in this court. It is for this reason that

In reply to the Plaintiff's argument, the Plaintiff avers & submits that

While what the Defendants claim & argue here, may be true, in general sense, such as "not" give him in this instant case, the Defendants do "not" have any penal or legal interest or reason in preventing this Plaintiff from communicating with inmate Nelson Johnston for the purpose of obtaining an affidavit from to use as opposition to Defendants' Motion for Summary Judgment to the Court.

Defendants next claim & argue, that:

In this case, Plaintiff alleges he sought permission to communicate with inmate Johnston for the purpose of having him sign an affidavit. He does not allege that he explained what facts he hoped to establish through the affidavit or how those facts were necessary to oppose summary judgment. In short, Plaintiff did not demonstrate that he tried to communicate with inmate Johnston overcome the Department's general policy prohibiting communications between inmates.

Thus the policy restricting inmate communications is reasonable both on its face and as applied in this case.

However in reply to such, the Plaintiff avers & submits that, the argument hereabove, is "factually frivolous & specious, as first place, that is pieced together to serve with out the benefit of a lawyer in this case sub judice and he did not know that he was to file such in the second place DC-ROM #02-07-13-A-700 with the DOC office where this Plaintiff has any copy of states and reasons that Plaintiff must allege such in order for the Superintendent to consider & effect the request to communicate with another inmate and, for the third place, in making the request of the counselor to the Superintendent for the permission to communicate with the Plaintiff did explain his cause what facts he hoped to establish through the affidavit, how those facts were necessary to summary judgment in this case.

Furthermore, Defendants have failed to show that it was necessary for the Plaintiff to allege what facts, if any, through the affidavit in order for the request to be granted by the Superintendent and they have further failed to establish in this instant case, whether this Plaintiff seek only to communicate with another inmate or to do

1. To communicate with inmate Johnston solely to obtain the information, their policy prohibiting inmates at different institutions communicating, in order to prevent the inmates from engaging in coordinated activity to disrupt the proceedings onto plane can would be reasonable on its face and as applied in this case.

In short, defendants have clearly failed to demonstrate they have a legitimate penological interest to prevent this plaintiff from communicating with inmate Johnston for the purpose of obtaining the legal affidavit from him in this case, and this they must, by law, do/should.

Furthermore, the Defendants, herein, argue that their prohibiting communications between inmates in different institutions is reasonable both on its face and as applied. In this case, however, it has been held by several Federal Prison Officials who argue that a prison rule or practice be upheld as reasonably related to penological objectives submit evidence to that effect, and not just arguments see V. SUMMAGAN, 72d 382, 386-87 (4th Cir. 1990); Huntington v. Turner, F-204648 (7th Cir. 1990); SULLIVAN v. LOWE, 901 F.2d 730, 730-31 (5th Cir. 1990); and Prossley v. PIGUIN, 754 F. Supp. 112, 117 (W.D. Mich. 1991). This the Defendants, herein in this instant case, have clearly failed to do so.

Furthermore, Defendants reliance upon Turner, 584 F.2d 72, 91-93, 107 S. Ct. 2254 (1982), is misplaced, as the issue upheld in turner, did not regard correspondence concerning matters of safety, so turner did not directly address this issue.

Finally, on this, in Shrestha v. Spelman, 654 F.2d 1349, 12 (9th Cir. 1981), the court held that a complete prohibition of correspondence with a present witness violated the First Amendment.

Given the above foregoing facts & arguments, Plaintiff avers submits, that while the Defendants prohibiting communication between prisoners may be reasonable on its face, it is not reasonable as applied herein in this instant case.

II. PLAINTIFF "HAS" DEMONSTRATED THAT COMMUNICATION WITH ANOTHER INMATE IS NECESSARY TO PERMIT HIM TO OFFER DEFENDANTS' MOTION FOR SUMMARY JUDGEMENT.

Defendants claim & argue, that =

In seeking relief from this Court, plaintiff asserts that he requires Promate Johnston's affidavit to oppose defendants' motion for summary judgment but he does not explain with any specificity why this is so. The most he says is that Promate Johnston has information showing that defendants' submissions on summary judgment are IPOS. Pl. Motion and Brief, p. 2.

Plaintiff does not provide an offer of proof as to facts the facts he hopes to establish through inmate Johnston's affidavit. Nor does he assert the inmate Johnston is the only source from which these facts can be derived.

In short, plaintiff has not established rights the relief he seeks from the Court. Accordingly, his motion to compel defendants to permit him to correspond ~~with~~ with inmate [redacted] is denied. 4/

However, in reply to the above, this plaintiff avers & says that, he is proceeding ~~per se~~ without the benefit of the services of a lawyer, herein in this case sub judice, and he was informed that he had to state with any specificity why he requires Johnston's affidavit to oppose defendant's motion for judgment, ~~for~~ it was this plaintiff aware that he had to offer of proof as to the facts he hoped to establish thru Johnston's affidavit, ~~or~~ it was this plaintiff aware that he asserted that inmate Johnston ~~is~~ the only source from which facts can be derived. THE U.S. SUPREME COURT has

facts can be derived. The last sentence cannot be  
interpreted to mean that the court may not  
afford plaintiff the benefit of any law or regulation  
and no conclusions are held to affect state law.

copy of padth as drafted by attorney.

Furthermore

Those pleadings are to be construed liberally and held to less stringent standards than formal pleadings drafted by lawyers. (Can a plaintiff's pleadings to state a PIA claim on which it had no right to sue? If so despite failing to cite proper legal authority, confusion of legal theories, poor syntax and sentence construction, it remains unitamitarily with pleading requirements. See § 8)

Federal Election Commission, 990 F.2d 643 (D.C. Cir. 1993),  
6 Vol. 4, 969 F.2d 594 (7th Cir. 1993); Edd v. Mac Douglas, 435 U.S.  
102 S. Ct. 700 (1982) and Homes v. Kennedy, 404 U.S. 519, 922  
594 (1972).

Furthermore, this Plaintiff did "not" do it benevolently in purpose fail to [REDACTED] do so and he now does so herein below.

Defendants claim & argue that, in seeking relief from the plaintiff asserts that he requires inmate Johnston's affidavit to defendants' motion for Summary Judgment, but he does not explain, specifically why this is so, and plaintiff avers & submits he does so heretofore below and infra.

Plaintiff Joe Avers submits, that he needs to file his  
affidavit to oppose Defendants' Motion For Summary Judgment  
because 1) Fed. R. Crim. P. 56(c)(2), require the plaintiff to file  
an affidavit opposing the motion for summary judgment; 2) the  
Johnston's affidavit will set forth facts showing that the  
and Ben C. Livingood "Ike" Jr Defendants' memorandum in  
Motion For Summary Judgment and in the unsigned Dec  
of Ben C. Livingood, which Defendants offer to support  
Motion For Summary Judgment. Specifically, the re  
institute Johnston's affidavit with facts about Dr.  
did not permit him to be in the SCI - CAMP HARRIS because  
own personal software and bank card records book  
A BIBLE OR QURAN IN THEIR RHUC SITE IN NOVEMBER 2009  
2009, and for most of January, 2010, and that they did  
not receive his mail before Jan 2010, Plaintiff

Plaintiff does not have the opportunity to obtain his/her books from his stored property in November, 1999 that Plaintiff is affraid it will show facts that, Defendants Rubendall & Roger <sup>1/10/01</sup> deny Plaintiff has legal & Being materials to him in April & May, 2000, that inmate John Rubendall will show facts that, the RHU officers developed an ongoing practice of denying RHU inmates <sup>OUTSIDE EXERCISE</sup>, in November & December, 1999 & developed a practice of placing a plexiglass shield at RHU Inmate's Cell doors and that Defendants Skjel, Palakovich & Rhoades were all personally aware of such failed to do anything about such, and that, inmate John Rubendall will show facts that, it was extremely hot in November and December, 1999, and that there was a problem with the heating system in the RHU in November & December, 1999, thereby also supporting what this Plaintiff states in <sup>Initial, Amended & Supplemental Complaints, hereinabove</sup> and <sup>3</sup>) that without Plaintiff John Stanis affidavit, this will be unable to adequately and effectively oppose Defendants Motion for Summary Judgment and Plaintiff support, herein this case Sub Judge and this, he will denied Plaintiff's to necessary evidence to enable so and as a consequence, he will be denied his right process of the law under the 14th Amendment of the United States Constitution and will be denied his rights under Article I, Pennsylvania State Constitution as well.

Defendants also claim & argue, that Plaintiff does not provide proof as to the facts he hopes to establish through Plaintiff's affidavit, as he assert the Plaintiff is the only source from which the facts can be derived, and the Plaintiff avers & submits that, he provided an offer of proof as to the facts he hopes to establish through Plaintiff's affidavit, as is stated above <sup>& SUPPL. 6, hereinabove</sup> that Plaintiff's affidavit, as is stated above <sup>& SUPPL. 6, hereinabove</sup> that, given the fact that this can't prevail that, given the fact that this can't prevail

legally denied Plaintiff's Motion For Order Requiring Prison Chaplain Rev. Vogel And Officer Craig To Sign Affidavit For The Plaintiff; herein this case sub judice, In so Norman Johnston Is the only source from which the facts can be derived.

### CONCLUSION

Based upon the above foregoing, hereto ~~sugested~~ and upon the papers & files in this case, this Plaintiff has established a right to the relief he seeks from the Court and in the interests of fundamental fairness, equal & due process of law, it would be a manifest miscarriage of justice if this Court does not enter an order granting this Plaintiff's Motion For An Order Requiring Defendant Dragovich And SCI-Greene Superintendent Conner Baffin To Permit This Plaintiff To Communicate With And Write To Inmate Norman Johnston At SCI-Camp Hill RHU, herein, To that, It is Contended That From The Plaintiff ~~will~~ be unable obtain such affidavit as Norman Johnston & thus, he will be illegally denied relevant & necessary evidence which he must have to combat, counter & adequate & effectively dis oppose Defendants' Motion For Summary Judgment And Motion In Support, herein this case sub judice.

(iv) HEREFORE, for all the preceding reasons aforesaid, all of that set forth in this Plaintiff's Motion For An Order Requiring Defendant Dragovich And SCI-Greene Superintendent Conner Baffin To Permit This Plaintiff To Communicate With And Write To Inmate Norman Johnston At SCI-Camp Hill RHU And Baffin Support, by reference hereunto the same, this Court should grant Plaintiff's Motion.

RESPECTFULLY SUGGESTED,

*John Richard JONES*

MRS JOHN RICHARD JONES  
#B-3819  
SCI-Greene K-911  
TDS Progress Office  
Waynesburg, PA 15370-0000

Dated: 31st JUNE 2001: